19. Accord and Satisfaction (§ 17*)—Accord Must Be Executed While in Existence.—The execution of an accord, while it is in existence, is as much necessary to constitute an accord and satisfaction as the accord itself.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 81.]

20. Accord and Satisfaction (§ 17*)—Accord Not Executed When without Consideration and Withdrawn before Payment.—Where a county never denied owing an attorney $1,000 for services, the only dispute being as to his claim for further amount, his offer to accept $1,000 in full satisfaction was a nudum pactum which he had a right to withdraw, and where, before actual payment and even before issuance of a warrant, he asked the board to reconsider its action and, after its refusal to allow any greater amount, appealed from such refusal, the action on the application for reconsideration or its subsequent payment of the warrant after the appeal was taken was not an execution of the accord, under Code 1919, § 5765, as the accord was not then in existence.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 81.]

21. Accord and Satisfaction (§ 10 (2)*)—Payment of Warrant after Notice that It Was Not Accepted as Payment in Full Held to Waive Condition in Warrant.—A county, by payment of a warrant issued to an attorney in full payment for services after notice that he did not accept it as such, waived such condition.

Prentis, J., dissenting.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 637.]

Error to Circuit Court, Campbell County.

Proceeding on a claim by Volney E. Howard and another against the County of Campbell, appealed to the circuit court from the board of supervisors. Judgment for the claimants, and the County brings error. Affirmed.

A. H. Light, of Rustburg, and *Jno. G. Haythe,* of Lynchburg, for plaintiff in error.

Kemp & Barksdale, of Lynchburg, for defendants in error.

APPALACHIAN POWER CO. *v.* BURRESS.

Sept. 21, 1922.

[113 S. E. 744.]

1. Appeal and Error (§ 1002*)—Verdict on Conflicting Evidence Not Disturbed.—In an action for injury to a motor truck from a collision with a street car, evidence of defendant's negligence, though conflict-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ing, held to support verdict for plaintiff, and to prevent reversal under Code 1919, § 6303.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

Error to Circuit Court, Tazewell County.

Action by V. L. Burress against the Appalachian Power Company. From a judgment for plaintiff, defendant brings error. Affirmed.

R. E. Scott, of Richmond, for plaintiff in error.
Greever & Gillespie, of Tazewell, for defendant in error.

COLLINS *v.* CITY OF RADFORD.

Sept. 21, 1922.

[113 S. E. 735-736.]

1. Municipal Corporations (§ 642 (3)*)—Motion to Quash Warrant Held General.—A statement in the record that defendant made a motion in the corporation court to quash the warrant for error apparent upon its face, but assigned no other ground therefor, obviously means that the motion was general.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 611.]

2. Municipal Corporations (§ 639 (1)*)—Warrant Charging Violation of Prohibition Ordinance Not Fatally Defective.—A warrant for unlawfully transporting, etc., and attempting to transport, ardent spirits, which showed that it emanated in the city of Radford for an offense committed within the city limits, and was issued and to be tried by the police justice of the city, whose jurisdiction as to such offenses was expressly confined to violations of city ordinances by Acts 1920, c. 196, and Acts 1918, c. 388, § 24, was not seriously irregular or defective, though it did not specifically charge that the acts were in violation of a city ordinance, and concluded in the name of the commonwealth instead of the city; especially where a bill of particulars was called for and furnished showing that the proceeding was by the city.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 655.]

3. Municipal Corporations (§ 639 (2)*)—Ordinances Need Not Be Pleaded or Proved in Case Originating in Municipal Court.—In a criminal proceeding originating in a municipal court of exclusive jurisdiction, it is not necessary in that court, or in the state court to which the case is taken by appeal for trial de novo, to plead or prove the ordinance on which the proceeding is based.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 642.]

4. Municipal Corporations (§ 642 (1)*)—General Motion to Quash

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.